

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RAMON BARCIA; RANDALL LEWIS;
on behalf of themselves, and on behalf of
all persons similarly situated,

Plaintiffs,

V.

CONTAIN-A-WAY, INC., a California corporation, doing business as NEXCYCLE and 20/20 RECYCLE CENTERS.

Defendants.

Case No. 07-CV-0938 IEG (JNA)

JUDGMENT AND ORDER OF FINAL APPROVAL OF THE SETTLEMENT AND DISMISSING ACTION

Judge: Irma E. Gonzalez
Courtroom: 1, 4th Flr

Date: March 2, 2009
Time: 10:30 a.m.

The Court having considered whether to order final approval of the settlement of the above-captioned action pursuant to the Stipulation of Settlement (“Settlement Agreement”) filed on or about July 3, 2008 [Doc. No. 25-2], having read and considered all of the papers of the parties and their counsel, having granted preliminary approval on August 15, 2008, and directed that notice be given to all Class Members of preliminary approval of the Settlement Agreement and the final approval hearing and the right to be excluded from the settlement, and having received no objections to the settlement and good cause appearing,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Terms used in this Order have the meaning assigned to them in the Settlement Agreement.

2. This Court has jurisdiction over the claims asserted in the Litigation by Plaintiffs Ramon Barcia and Randall Lewis (“Plaintiffs”), and over Class Members and Defendant Contain-A-Way (“Defendant”).

3. The Court hereby makes final the conditional class certification contained in the Order of Preliminary Approval of Settlement, Certification of Settlement Class and Appointment of Class Counsel, and thus makes final for purposes of the Settlement Agreement the certification of a class whose members consist of All individuals employed as Site Attendants and/or Floaters by Defendant in California, at any time from May 23, 2003 to August 15, 2008 [the date of preliminary approval of the settlement by the Court], except for those persons who timely requested to be excluded from the settlement in accordance with the terms thereof, as reported in the Declaration of the Claims Administrator on file herein.

1 4. The Court hereby finds that the Notice of Preliminary Approval of Settlement
2 and Final Approval Hearing, as mailed to all Class Members by September 14, 2008, fairly and
3 adequately described the proposed Settlement Agreement, the manner in which Class Members
4 could object to or participate in the settlement, and the manner in which Class Members could
5 opt out of the Class; was the best notice practicable under the circumstances; was valid, due
6 and sufficient notice to all Class Members; and complied fully with the Federal Rules of Civil
7 Procedure, due process, and all other applicable laws. The Court further finds that a full and
8 fair opportunity has been afforded to Class Members to participate in the proceedings
9 convened to determine whether the proposed Settlement Agreement should be given final
10 approval. Accordingly, the Court hereby determines that all Class Members who did not file a
11 timely and proper request to be excluded from the settlement are bound by this final Order.
12

13 5. The Court hereby finds that the Settlement Agreement is fair, reasonable, and
14 adequate as to the Class, Plaintiffs and Defendant, and is the product of good faith, arms-length
15 negotiations between the parties, and further, that the Settlement Agreement is consistent with
16 public policy, and fully complies with all applicable provisions of law. Accordingly, the Court
17 hereby finally and unconditionally approves the Settlement Agreement and authorizes
18 Defendant to pay the individual settlement amounts from the Settlement Amount in accordance
19 with the terms of the Settlement Agreement.
20

21 6. Defendant agreed in the Settlement Agreement not to object to Plaintiffs' request
22 for an enhancement award in the amount of \$12,000.00 each as payment to them for their
23 services as Plaintiffs and Representatives for the Class. The Court has considered Plaintiffs'
24 request for an enhancement award and, good cause appearing, hereby grants Plaintiffs' request
25
26

in the amount of \$12,000.00 each and authorizes Defendant to pay this amount from the Settlement Amount in accordance with the terms of the Settlement.

7. Defendant further agreed in the Settlement Agreement not to oppose any motion by Plaintiff for reasonable attorneys' fees and costs requesting up to 25% of the Maximum Settlement Consideration (\$625,000.00), to be approved by the Court. The Court has considered Plaintiff's motion for the award of attorneys' fees and costs and, good cause appearing, hereby awards Plaintiff's counsel attorneys' fees and costs in the amount of \$625,000 and authorizes Defendant to pay such amounts from the Settlement Amount in accordance with the terms of the Settlement Agreement.

8. Defendant further agreed in the Settlement Agreement to pay from the Settlement Amount the reasonable costs of the Claims Administrator associated with notices to the Class and the administration of the Settlement Agreement and all costs associated with distribution of individual settlement amounts to Class Members. Good cause appearing, the Court hereby authorizes Defendant to pay all such amounts not to exceed the aggregate sum of \$24,510.44 from the Settlement Amount in accordance with the terms of the Settlement.

9. The Litigation is hereby dismissed with prejudice; *provided*, that without affecting the finality of this Order, the Court retains exclusive and continuing jurisdiction over the Litigation, Plaintiffs, all Class Members and Defendant, for purposes of supervising, implementing, interpreting and enforcing this Order and the Settlement Agreement.

IT IS SO ORDERED

Dated: March 6, 2009

Irma E. Gonzalez
IRMA E. GONZALEZ, Chief Judge
United States District Court